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5 UNITED STATES DISTRICT COURT
6 EASTERN DISTRICT OF WASHINGTON

7 GREGORY A. O'NEAL,

8 Plaintiff,

9 v.

10 KURION-VEOLIA INC.,

11 Defendant.

NO: 4:17-CV-5035-TOR

ORDER DISMISSING COMPLAINTS
WITH PREJUDICE

12 BEFORE THE COURT are Plaintiff's Complaints, ECF Nos. 4 and 5, filed on
13 March 20, 2017, and March 31, 2017. The Court has reviewed the Complaints and
14 the file therein, and is fully informed.

15 Plaintiff, Gregory A. O'Neal, proceeding *pro se*, filed an application to
16 proceed *in forma pauperis*, under 28 U.S.C. § 1915, which was reviewed for financial
17 purposes and approved on March 20, 2007. ECF No. 3. The Court is now
18 performing the second part of the review process under 28 U.S.C. § 1915(e)(2).

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PLAINTIFF'S ALLEGATIONS

Plaintiff Gregory A. O'Neal alleges that he accepted a Design Manager position with Defendant Kurion-Veolia Inc. through Aerotek, an employment agency. *See* ECF No. 5 at 3. On his first day, Plaintiff was informed that Defendant needed to hire two new employees. *Id.* Plaintiff was "very disappointed" that he was not allowed to participate in the hiring process, and expressed his dissatisfaction to an Aerotek representative. *Id.* Plaintiff contends that he would not have accepted the position if he did not have "the authority to hire and fire." *Id.* On February 20, 2017, Plaintiff's boss stated, "I just have a gut feeling you're not going [sic] work well and I am going to have to let you go." *Id.*

The Court construes Plaintiff's Complaints as alleging breach of contract and perhaps negligence causes of action against Defendant related to his termination. *Id.* at 4. Plaintiff asserts that Defendant breached his contract by not allowing him to have the authority to hire and fire. *Id.* at 3-4. Plaintiff seeks "\$25,000, plus all court costs and attorney fees" because he is "out a job, income, regular use of [his] music studio and [because of] the bills" he incurred to relocate. *Id.* at 4.

DISCUSSION

A. Standard of Review

Courts are required to screen any complaint filed by a party seeking to proceed *in forma pauperis*. 28 U.S.C. § 1915(e)(2). "An *in forma pauperis* complaint is

1 frivolous if it [has] no arguable substance in law or fact.” *Tripati v. First National*
2 *Bank & Trust*, 821 F.2d 1368, 1370 (9th Cir. 1987) (internal quotation marks and
3 citations omitted); *see also Neitzke v. Williams*, 490 U.S. 319, 325 (1989), superseded
4 by statute on other grounds, 28 U.S.C. §1915(d), as stated in *Lopez v. Smith*, 203 F.3d
5 1122, 1126 (9th Cir. 2000).

6 “Federal courts are courts of limited jurisdiction,” possessing “only that power
7 authorized by Constitution and statute.” *Kokkonen v. Guardian Life Ins. Co. of Am.*,
8 511 U.S. 375, 377 (1994). The court may raise the question of its subject matter
9 jurisdiction over proceedings at any time and on its own initiative. *See Morongo*
10 *Band of Mission Indians v. California State Board of Equalization*, 858 F.2d 1376,
11 1380 (9th Cir. 1988). If a court lacks jurisdiction, the case must be dismissed as
12 frivolous under 28 U.S.C. § 1915(e)(2)(B)(i). *See Cato v. United States*, 70 F.3d
13 1103, 1106-07 (9th Cir. 1995) (no arguable basis in law where there is no federal
14 subject matter jurisdiction).

15 **B. Analysis**

16 Plaintiff’s Complaints include only what appear to be state law claims and
17 more importantly, the Complaints do not establish a basis for federal question
18 jurisdiction. *See* 28 U.S.C. § 1331; ECF No. 5 at 4-5. Moreover, the amount in
19 controversy does not exceed \$75,000, which is required for diversity of citizenship
20 jurisdiction. *See* 28 U.S.C. § 1332; ECF No. 5 at 5.

1 As a result, this Court lacks jurisdiction to entertain Plaintiff's claims. It
2 appears only the state courts are able adjudicate Plaintiff's dispute. Thus, Plaintiff's
3 Complaints are dismissed without leave to amend because amendment would be
4 futile. Plaintiff's Complaints present straight-forward state law causes of action, not
5 ones subject to the jurisdiction of the federal court. Likewise, any appeal of this
6 Order would be frivolous and taken in bad faith. *See* 28 U.S.C. § 1915(a)(3).
7 Therefore, Plaintiff's *in forma pauperis* status (ECF No. 3) is also revoked.

8 **Accordingly, IT IS HEREBY ORDERED:**

9 1. The claims asserted in Plaintiff's Complaints (ECF Nos. 4 and 5) are

10 **DISMISSED without leave to amend.**

11 2. Plaintiff's *in forma pauperis* status (ECF No. 3) is **REVOKED** because any
12 appeal of this matter would be frivolous.

13 The District Court Executive is directed to enter this Order, enter Judgment of
14 dismissal without leave to amend, forward copies to Plaintiff, and **CLOSE** the file.

15 DATED April 27, 2017.



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A handwritten signature in blue ink that reads "Thomas O. Rice".

THOMAS O. RICE
Chief United States District Judge